

USSN: 10/674,050
Group Art Unit: 3653
Docket No.: 117P1713USU1

Remarks

This amendment is submitted in response to the Office Action dated December 20, 2004. Being submitted concurrently herewith is a one-month extension of time, thereby extending the due date up to and including April 20, 2005.

The Examiner has rejected claims 1-6 under 35 U.S.C. 103(a) as being unpatentable over the Fortenberry patent in view of McNabb et al.

Applicants respectfully submit that the claims are not obvious in view of the two cited references. However, Applicants have amended claim 1 to include the limitations of claim 3. The independent claim 1 now recites that the product is selected from the group consisting of a detergent, sanitizer and rinse aid.

Applicants respectfully submit that there is not a *prima facie* case of obviousness set forth. The references are not sufficient for one of ordinary skill in the art to make the proposed combination. The Fortenberry patent discusses a sanitary pill dispenser. Applicants can find no reason apparent from the evidence of record that would justify the combination or modification of the pill reference with the McNabb et al. reference that deals with a dispensing system for a dishwasher. Even if all the elements of the claim are disclosed in prior art references, the claimed invention taken as a whole cannot be said to be obvious without some reason given in the prior art as to why one of ordinary skill would have been prompted to combine the teachings of the references to arrive at the claimed invention. There is no relationship or suggestion in the references between a pill dispenser and a dishwashing dispenser and Applicants therefore submit that there is no basis for combining them.

Another reason why the claimed invention is not obvious is that the intended function of the pill dispenser is destroyed. The pill dispenser is for dispensing a pill and the user then places the pill in the user's mouth and swallows it. Applicants can find no teaching or suggestion that the pill is diluted with water. The pill may be taken with water, but this is not the same as being diluted with water. It is stated in column 1, line 67 and continuing onto column 2 that the Fortenberry patent is to prevent contamination when coming in contact with the user's hands.

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Therefore it is clearly shown and disclosed that the Fortenberry pill dispenser is not for release into a diluent.

Further, Applicants submit that there must be some reason or suggestion found in the prior art of record that would lead one of ordinary skill in the art to combine the references. There must be a suggestion in the prior art that the proposed modification is obvious to do rather than obvious to try. Applicants can find no suggestion in the prior art as to why the two references should be combined.

Further, Applicants respectfully submit that the Fortenberry patent is non-analogous art. A person in the art of dispensing a detergent, sanitizer or rinse aid does not look to the art of a pill dispenser in developing a dispenser. Further, in dependent claim 2, the device that is used is selected from the group consisting of a sink, bucket and dishwasher. This is further evidence of the fact that Fortenberry is non-analogous art.

Accordingly, Applicants respectfully submit that claim 1 and all the dependent claims 2 and 4-6 are non-obvious for the reasons noted above and respectfully request reconsideration and allowance thereof.

If the Examining Attorney has any questions, he is respectfully requested to call the undersigned at 612.331.7415.

Respectfully submitted,

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